



San Diego Employers Association

SDEA Newsletter | May 2014



Participate in the 2014 San Diego Salary Survey!

The San Diego Employers Association Wage & Salary survey is your best source for salary survey data for the San Diego area.

Last year we reported salary data on 195 jobs, covering over 8000 incumbents. This year we are looking to increase our participation numbers and we would like you to participate!

The data collection begins this month and will be distributed in July. **All participants will receive a complimentary copy of the results and there is no charge to participate.** Don't miss your opportunity—the survey retails between \$450 and \$650 otherwise.

This is your chance to express your interest—we will use the information provided to send out the survey collection data this month.

If you would like to participate, email us at info@sdea.com with your name, company name, and phone number. The best part is that you will receive a free copy of the Survey once it is completed!

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LEAVES OF ABSENCE – A Suggestion You Won't Find Under State or Federal Laws

By Jennifer Jacobus, PHR-CA

Leaves of absences cause employers headaches for many different reasons. Many of those reasons have to do simply with the state we live in. California employers are left with having to differentiate between federal and state law as well as how the various state leaves that we must comply with fit together—what leaves can run concurrently with each other.

One thing we see employers deal with on a regular basis, something that can often be avoided, is the lack of communication that ends up causing them undue hardship. Employers often seem hesitant to make any requirements or “demands” of employees who are on leave and this may be to their detriment.



Unless otherwise required as part of an employee's leave of absence (LOA), i.e., no contact from the employer, employers can and should keep regular contact with their employees without coming across as harassing. Contact means checking in, confirming that the return date hasn't changed, keeping the employee involved in the “goings-on” of the company.

Employers are permitted to require employees to provide regular updates that are of course reasonable. Updated doctors' notes can be required within California law and those laws that govern the federal Family Medical Leave Act. An employer can require an employee to check in a couple of weeks before their return to date to discuss the transition. An employer could and should require an employee to let them know immediately if the return date has changed or if they don't plan to return to work at all.

In some circumstances an employer may feel that if they don't talk to, reach out to, or correspond with an employee while they are a LOA, that the employee may simply go away—more often the case when the employee on LOA is a poor performer. However, we have seen time and time again, that the employee has their own thoughts on the lack of communication. An employee may think, since they are not hearing otherwise, that everything must be fine, the leave is approved, and their job will be waiting for them when they are released to return.

We can't say it enough—and it applies in this situation as well—document, document, document. Your communication efforts, that are well documented, may be helpful if the employer and employee are having differing opinions on the status of the leave.

Proposed Amendments to California Family Rights Act

By Christopher Olmsted, Esq. with Barker Olmsted & Barnier

The California Family Rights Act (CFRA) provides leave rights for employees relating to the birth of a child, adoption of a child, care for a seriously ill child, parent or spouse, or for the employee's own serious health condition. In many ways, this California leave law resembles the federal FMLA, although there are some important differences. Recently, the California government has been reviewing updated regulations for CFRA.

Under the CFRA, employees are entitled to up to 12 weeks (per 12 month period) of unpaid leave relating to the above events. At the end of the employee's leave, the employer must reinstate the employee to the same or comparable position. The CFRA only applies to employers with 50 or more employees. Further, the employee must have worked at least 1 year with the employer, at a location with 50 or more employees within 75 miles. These provisions mirror the federal leave statute, the Family Medical Leave Act (FMLA).



Christopher Olmsted

In February, the Department of Fair Employment and Housing (DFEH) announced proposed changes to the CFRA. The proposed changes will go through a series of public hearings, comments, and revisions, before anything is finalized. Therefore, it is too soon to know what the actual changes may entail. Many of the proposed changes are merely technical.

The proposed substantive changes include comprehensive regulations on how an employer may violated the law by "interference" with an employee's CFRA rights. The regulations also propose to clarifying the interaction between CFRA and Pregnancy Disability Leave.

Stay tuned for updates regarding the proposed changes.
To learn more about Christopher Olmsted, visit www.barkerolmsted.com.

A Retirement Reality Check

Contributed by Sean Ciemiewicz with Retirement Benefits Group

If you have already retired or if you can count the number of years until retirement on your fingers then please heed this friendly warning: Unless you're already making the most of your current retirement planning strategies, then it may be difficult to lay the groundwork for a financially secure future.

Is your portfolio on a course that's destined to lead to a retirement income shortfall? Consider these strategies that can help improve your long-term outlook.

During Your Working Years

Determine an appropriate time frame for applying for Social Security benefits. If you plan to apply before your so-called "full retirement age," then you can expect to receive lower monthly benefits. Delaying your application could increase your benefits. Detailed information about your specific situation is available online from the Social Security Estimator Contact Social Security at least three months before retirement to apply for benefits.

When You Reach Retirement

Make arrangements for your retirement account distribution strategies. If you participate in a workplace retirement plan, contact your employer's human resources office to learn what withdrawal options are available to you. Once you have that information handy, you'll need to decide whether to begin withdrawing money from your taxable accounts first or from tax-deferred accounts first.

Keep in mind that the IRS requires most retirement savers to begin taking withdrawals known as required minimum distributions ("RMDs") from employer-sponsored retirement accounts and traditional IRAs after reaching age 70½. If you don't take your RMDs, you could be forced to pay substantial tax penalties. RMD rules recently became less complex, but it's still important that you understand them and implement an appropriate distribution strategy.

All Retirement Investors

Review your postretirement medical insurance needs. For example, you might want to think about purchasing coverage to supplement Medicare benefits. Your retirement security is very important. A smart first step to keeping your retirement strategies on track is to contact a qualified financial professional.

To learn more, email Sean Ciemiewicz with Retirement Benefits Group at sciemiewicz@rbgnrp.com or visit www.rbgnrp.com.



Roundtable: Workplace Wrongdoing Investigations

**Friday, May 16, 2014
11:30 a.m. - 1 p.m. at SDEA**

Learn how thorough and prompt investigations into workplace wrongdoing will save you hundreds of thousands of dollars.

Complaints can come arise from many reasons: a harassment complaint, a threat of workplace violence or another workplace dispute. How you handle the initial complaint is key. Prompt, fair and thorough investigations are essential to your ability to make sound employment decisions and minimize legal risks. This roundtable will talk about recent cases where employers did not make such sound judgment and how it costs them hundreds of thousands of dollars.

This Roundtable is being led by Lonny Zilberman, Esq.

\$35 Members | \$45 Non-Members | Lunch is included
Register at www.sdea.com.



Upcoming Training Opportunities

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| May 1 | Fundamentals of HR |
| May 6 | Documentation and Termination Leadership In The Workplace |
| May 7 | Achieving Results Through Accountability |
| May 8 | Supervisor and the Law |
| May 13 | Resilving Conflict Time Management |
| May 14 | Skills for Working Leaders Harassment Prevention Webinar |
| May 15 | Employee Handbook Formation |
| May 20 | Employment Law |

More classes available at www.sdea.com

San Diego BBB Networking Event - May 1st

Join us, along with members of the local business community for a networking happy hour hosted by the San Diego BBB, taking place

Thursday, May 1st from 4 p.m. - 6 p.m.
at Randy Jones All American Sports Grill

Registration: \$15 for non-BBB Accredited Businesses who are members of SDEA.

RSVPs are required. For more information please contact the BBB's Trang Nguyen at tnguyen@sandiego.bbb.org.

To learn more visit www.bbb.org/sandiego.



LEAD San Diego Visionary Awards - May 22

Don't miss LEAD San Diego's 12th Annual Visionary Awards on Thursday, May 22! Celebrate San Diego's leaders and network at San Diego's premier leadership recognition event. To learn more and to register, visit www.leadsondiego.org.

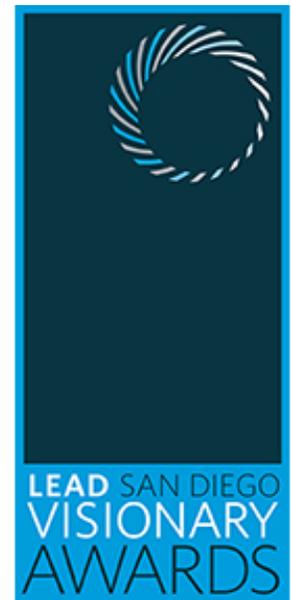
Thursday, May 22, 2014

5 p.m. - 8:30 p.m.

Location: Hilton San Diego Bayfront
To Register visit www.leadsondiego.org

Also, save the date!

Increase your understanding of the critical issues and key players in our region! Apply for LEAD San Diego's IMPACT Class of 2015. Monthly seminars begin in September and the application deadline is June 13.



Action Needed! New State Minimum Wage Requires Poster Updates

The new minimum wage requirements will affect more than your payroll. The new minimum wage law, taking effect July 1, 2014, will mean new compliance posters for all California employers. This is a mandatory requirement and non-compliance could result in fines and penalties and even court action and civil action.

SDEA has the all-in-one federal and state compliance poster available for purchase. OSHA compliance posters, posters in various languages as well as mandated posters for other states are also available.

For more information and to order, email info@sdea.com or call 858-505-0024.



Retirement Benefits Group Hosts a Complimentary Money-Related Stress-Reduction Workshop Thursday, May 22 at 11:30 a.m.

For 73% of workers, personal finances are the number one cause of stress. This stress leads to a lack of productivity and accounts for billions of dollars in losses each year to employers. Maintaining a positive and productive staff is critical, but is also challenging.

Join us on [Thursday, May 22nd](#) for an informative discussion on how and why companies like Intel, IBM, and Hewlett Packard, as well as San Diego County, Caltrans, FBI, CHP, San Diego City, and hundreds more, have added employee education to the list of their employee benefits at no cost.



Hosted by the Foundation for Personal Financial Education and Retirement Benefits Group, this event will inform participants about:

- Why financial education for employees is not only the second most desired employee benefit, but why it is critical to productivity
- How providing financial education can further help you satisfy your 404c compliance with your 401(k) plan or employer sponsored retirement plan
- How you can add this valuable benefit at no cost

Pre-registration is required. To learn more and to register for this complimentary event, visit www.sdea.com.



SDEA Helpline Q & A

Every month SDEA receives hundreds of calls. Here readers have the opportunity to learn from some of the most common HR questions received by our HR consultants.

Q. I understand that non-compete agreements are generally unenforceable in California, so what's the best way for me to protect my business?

A. Yes, it's true that non-competes are generally not enforceable in California, but there are agreements (or policies) employers can create and implement to protect their business. One such method is to develop a Confidentiality Agreement.

The purpose of a Confidentiality Agreement is to inform the employee that he or she is prohibited from disclosing trade secrets such as processes, formulas, programs, marketing strategies, devices, documents, customer lists and any other specific information concerning clients, vendors, etc. to outside parties. Such Agreements would include reference to the fact that customer information is the property of the employer and that this information is not to be used in any way to negatively affect the employer's business.

For businesses which conduct research or invent products or devices, implementing an Inventions Agreement might be a useful option. Typically, Invention Agreements are initiated during the new hire process so that new employees can disclose any previously developed products or devices. This is to avoid any misunderstanding, during and after the course of employment, over ownership of inventions.

Most businesses have trade secrets they want to protect and there is not a "one size fits all" solution for all employers in terms of protecting the company. Therefore, it's not recommended that companies search for and use policies from the internet, but to seek legal counsel. One of the most important functions of these agreements is that they are "enforceable" especially when presented to opposing counsel.



Q. From time to time, employees want to either claim exempt from state and federal income tax withholding or claim more than 10 allowances. Are there any special requirements for the employer in these situations?

A. Yes, the EDD requires that employers send a copy of the employee's Withholding Allowance Certificate (Federal-Form W-4 and/or CA State-Form DE 4) to the Franchise Tax Board (FTB).

Employers would continue to accept the original withholding documents until notified by the FTB.

Any disagreements on tax withholding would be reviewed by the Franchise Tax Board based on any additional information submitted by the employee.

Employees may be subject to a \$500 penalty for unreasonable allowances pursuant to Section 13101 of the California Unemployment Insurance Code.

Further information can be found at www.edd.ca.gov.

Advertising And Article Submission Information

This newsletter is published monthly by the San Diego Employers Association (SDEA). We welcome the submission of articles by our members on topics of interest related to HR. Date for submission of materials and advertising is the 15th of the month prior to publication on the 1st of each month. If you are interested in submitting an article or obtaining advertising rates, please email info@sdea.com.